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March 16, 2000

Written *Ex Parte*

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals – TW – A325
445 Twelfth Street, S.W.
Washington, D.C. 20554

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MAR 16 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 98-147

Dear Ms. Salas:

BellSouth files this letter to address allegations made by BlueStar Communications, Inc. ("BlueStar") against BellSouth in an Ex Parte Letter filed with Commission on February 5, 2000.¹

Introduction

Collocation is a complex process. For the incumbent local exchange carrier ("ILEC"), there are internal issues to resolve, such as space concerns, engineering of equipment, power constraints, architectural and security concerns. Additionally, there are external issues it must address such as complying with permit requirements, managing vendors, and coordination and accommodation of the requests of multiple competitive local exchange carriers ("CLECs"). Viewed in a vacuum, none of these issues would appear to be overwhelming. The reasonableness of any CLEC's demands, however, must be considered in the context of multiple CLECs seeking the exact same resources, namely limited space in a limited amount of time. To ensure that it handles collocation requests in an expeditious and nondiscriminatory manner, BellSouth has adopted guidelines. BellSouth believes that these guidelines are reasonable, and BellSouth's obligations to all CLECs require that it follow its guidelines.

In BlueStar's Ex Parte Letter, BlueStar raises various allegations towards BellSouth relating to the timing of provisions in collocation space, access to collocation space, the cost of collocating and resolving disputes expeditiously. The following is

¹ See Ex Parte Letter, dated February 5, 2000, to Ms. Magalie Roman Salas, Secretary, from Patrick J. Donovan, Counsel for BlueStar Communications, Inc., CC Docket 98-147,

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BellSouth's response to BlueStar's allegations.
BlueStar's Allegations

A. Timing of Provision of Collocation Space Pursuant to BlueStar's Collocation Applications

There are three events that precede the start of collocation and are essential to its success. The first is the CLEC's submission of an application for collocation. The second is BellSouth's response to the application, which includes an estimate of the cost and the length of time it will take to collocate the requested equipment. The third is the CLEC's submission of the firm order. If a CLEC wants to proceed with collocation after receiving the cost and time estimate, it submits a firm order to BellSouth. The firm order must correspond to the request made in the application. Changes in the request could impact collocation. As stated above, BellSouth must coordinate the collocation process for multiple CLECs in its central offices. The amount and type of equipment that any one CLEC requests to place in a central office could potentially affect power capacity,² the air conditioning,³ the physical structure,⁴ and engineering⁵ of the central office. It is therefore extremely important that BellSouth know exactly what the CLEC wants to collocate. BellSouth's need is magnified when multiple CLECs are seeking collocation in the same central office.⁶ Indeed, until this information is known, it is impossible for BellSouth to determine space availability or provide a cost estimate.

² This includes the power capacity necessary to operate the equipment and the back up battery supplies needed if there is a power failure.

³ In order to operate properly, telecommunications equipment must not exceed certain temperature levels. Moreover, this equipment emits heat while it is operating. Accordingly, any time new equipment is placed in the central office, BellSouth must determine if the current air conditioning capacity will be adequate to offset the heat dissipation that will occur from the equipment.

⁴ In some instances when a CLEC requests collocation, all that is required is that additional racks be installed, while other instances may require extensive space preparation, including increasing power and air conditioning capacity, moving walls, installing lights and moving existing equipment.

⁵ The CLECs' equipment must be interconnected to the ILECs and other CLECs' equipment. This usually requires installation of cable racking and running of cable between the equipment. BellSouth engineers must determine when existing racks and cable are adequate to accommodate the CLECs' equipment or whether additional racking and equipment will be required.

⁶ In fact, there were numerous other inquiries for space in the same offices where BlueStar had requested space during the same period. All these inquiries had to be evaluated simultaneously in light of the collocators' requirements capacity of the collocation area and the building.

The cost and time estimate provided by BellSouth is based on initial review of space availability and equipment requirements. On receiving a firm order after determining that space is generally available in an office, BellSouth issues a space preparation completion date which depends upon both the interval required to obtain any municipal permits for the construction, if needed, and the interval required to complete the space. At the same time that this information is given to the CLEC, it is also given to BellSouth's consultant who reviews the application. The consultant first determines whether any changes are required in the office and then whether any changes that are required trigger the need for a building permit. BellSouth cannot commence certain construction work that modifies mechanical, electrical, architectural or safety factors within its central offices without first acquiring the necessary permits. If no permit is required, this information is relayed to the CLEC in the form of an earlier space preparation completion date.

BellSouth has experienced provisioning delays because of long intervals required to complete the permit and inspection processes in certain local jurisdictions. BellSouth has also encountered delays when it has needed to resolve local building code issues. For instance, in Florida municipalities where BellSouth has received requests from CLECs, BellSouth has experienced permit processing intervals that range from fifteen days to more than sixty days. Moreover, many municipalities require BellSouth and its contractors to permit inspections at each stage of construction before the next stage can begin. This includes the sometimes-difficult task of scheduling the inspections when the municipality has only with a limited pool of inspectors

BlueStar Allegation 1:

BlueStar submitted applications in May 1999 to BellSouth for cageless collocation in Jacksonville, Florida. BellSouth took three months to supply a quote and then an additional two months to even set a date for provision of collocation space.

While BlueStar's letter does not identify the specific collocation applications to which it is referring, BellSouth is aware of BlueStar's efforts to collocate in parts of Florida served by BellSouth. In Jacksonville, BlueStar did submit applications in May 1999 of which seven were not accepted as valid until June 30, 1999. The delay between May and June, however, was caused by the inadequate and incomplete information on BlueStar's applications.

BlueStar's letter to the Commission did not mention that after submitting its applications for six of the offices in May, BlueStar changed its collocation requirements from twelve bays to three bays and for the seventh office it changed the requirements from twelve bays to five bays. BlueStar may view this as a mere ministerial change, but as explained above, BellSouth cannot indicate assured collocation space availability or give a cost estimate until it has all the accurate information from the CLEC. Even though BlueStar went from twelve bays to as few as three in most cases, BellSouth still had to coordinate the changes with requests from other CLECs before a response to BlueStar

could be made.⁷ BlueStar's collocation agreement is clear that changes in its request will cause delay in BellSouth's response. BellSouth understands that changes may occur in a CLEC's plans; this should not, however, justify imposition of burdensome arbitrary response requirements on the ILECs. It is important to note that even with the significant changes made by BlueStar, BellSouth completed all the Jacksonville collocation requests within ninety calendar days of BlueStar placing a firm order.

BlueStar Allegation 2:

BellSouth set [the collocation date for the Jacksonville offices] for February 2000 claiming that they needed permits to make minor changes in power and air conditioning. When BlueStar finally received permission to enter the offices and build, it became evident that almost all of them had sufficient extra space to have made it possible for BellSouth to have simply inserted BlueStar in an existing bay back in August. When BlueStar complained about the permitting delay, it became obvious that the BellSouth personnel had no idea whether a permit application had been filed or would be granted soon. When BlueStar demanded a meeting with permit authorities, the permit was granted in 48 hours.

For the Florida offices, BellSouth provided BlueStar with the time estimate needed to complete the space preparation for collocation. The space preparation for several of these offices required a building permit. BellSouth inquired of its construction vendor how long it would take to obtain the permits and was informed by the vendor that it would take approximately two months. BellSouth therefore added two months to the time necessary to complete the preparation work.⁸

BlueStar complained about the space preparation dates. BellSouth therefore explained the reason for the delay and committed that if the permits were received earlier, BlueStar's space would become available earlier. Still, BlueStar expressed dissatisfaction over the time necessary to obtain a permit. BellSouth suggested, BlueStar did not demand, that a joint visit be made to the Jacksonville building department to see if there was anything that could be done about the intervals. At the meeting with the

⁷ For example, BlueStar's reduction of its request from 12 bays to 3 may have required BellSouth not only to change the area to which BlueStar was assigned to one too small to accommodate BlueStar's earlier request, but also to shift planned locations for other CLECs so that central office space was used as efficiently as possible.

⁸ The time required to obtain a permit is not counted against BellSouth in determining whether it meets its preparation intervals. This time is beyond BellSouth's control. Accordingly, pursuant to BellSouth's policies and collocation agreements, the time interval to complete the collocation space preparation does not begin until the requisite permits have been obtained. In some instances obtaining the permit can take as long as space preparation.

Jacksonville building department both parties were informed that the building department had mechanized its plan review process, and by doing so, the interval required to obtain a permit was reduced to about five to fifteen days, depending on the scope. With this information, the estimated intervals for providing the space to BlueStar were reduced. During the meeting the parties also learned that the City of Jacksonville has a web site that gives the status of permit applications. BellSouth provided BlueStar the permit numbers to enable BlueStar to track the status of the permit requests.

As stated in BlueStar's allegations, some building permits for Jacksonville projects were obtained within forty-eight hours of the visit with the City officials. Obtaining the permits in this time frame, however, had nothing to do with BlueStar's demands of either BellSouth or the Jacksonville building department visit. As the building department of Jacksonville can attest, if necessary, obtaining the permits was simply a matter of the permits having been filed prior to the meeting and being processed in the normal course of business.

While BellSouth will work with the CLEC to try to speed the permit process, obtaining a municipal permit is in the hands of the municipality issuing that permit. BlueStar's, as well as other CLECs', requests to require fixed calendar day intervals for completion of collocation projects ignore this problem. An ILEC cannot reasonably be punished for missing a Commission fixed interval because a municipality has not granted a permit. Moreover, it is not only completely unfair to place the burden on the ILEC to go through the trouble and expense of seeking a waiver from such an interval every time a permit is needed, but also an inefficient use of limited Commission resources to address such waiver requests.

BlueStar Allegation 3:

In Orlando, BlueStar demanded a similar meeting, but was told on the eve of the planned meeting date that BellSouth had determined that no permit was needed.

The facts regarding Orlando are similar to those regarding Jacksonville. BellSouth provided an initial estimate of the time required to provide space, which included the time required to obtain a permit. BellSouth's conclusion that a permit was needed was based on the initial information supplied by the outside architect under contract to BellSouth. The architect made his determination based on his comparison of the capacity of the electrical and air conditioning systems to the needs of the various CLECs requesting space in this facility. The outside architect completed his final evaluation, which based on subsequently gathered data about the existing capacities of the space to be assigned to BlueStar concluded that the existing systems could handle the BlueStar requirements. Accordingly, a permit was not needed. BlueStar implies that BellSouth intentionally delayed collocation by improperly claiming that a permit was needed. There was no such intent. BellSouth based the need for a permit on the initial report of its contracted architect. BellSouth informed BlueStar immediately when BellSouth later learned that a permit was not needed.

B. Access to Collocation Sites:

BlueStar has made numerous allegations regarding its access to equipment in the BellSouth central offices. These allegations include complaints regarding BellSouth's policies and specific claims about situations that BlueStar alleges occurred in some of BellSouth's central offices. Just as with the intervals, BlueStar's letter does not portray an accurate picture.

BlueStar Allegation 4:

Throughout the process of collocating in all nine BellSouth states, BlueStar has experienced great difficulty in obtaining access to its collocation space in BellSouth central offices. BellSouth has taken the position that any employee of BlueStar, or its certified contractors such as Lucent Technologies, must submit a completed background check to BellSouth security and receive an ID from BellSouth. BellSouth is then supposed to give BlueStar a set of electronic key cards for each central offices which would permit BlueStar to access its collocation space and the areas where it has to run cables to access power and connect to BellSouth frames for DS-O 1 and 3 terminations....

In the *Advanced Services Order* the Commission provided guidelines for ILECs to follow in establishing security requirements for protection of the ILECs' and other CLECs' equipment and networks. Specifically the order stated that "incumbent LECs may impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their own premises either for their own employees or for authorized contractors."⁹ BellSouth adheres to these guidelines in its security requirements.

For example, BellSouth conducts a criminal background check on all prospective new employees prior to offering them employment. This background check is conducted in all states or counties in which the prospective employee has resided five years prior to his or her application for employment with BellSouth.¹⁰ Contrary to BlueStar's claims, which imply that BellSouth gathers these data for its internal use BellSouth does not require CLECs to "submit a completed background investigation to BellSouth Security."

⁹ *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Dkt. No. 98-147, *First Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd 4761 (1999) ("Advanced Services Order") ¶ 47.

¹⁰ Moreover, BellSouth conducts drug testing of its prospective new employees. This requirement for drug testing is not presently imposed upon CLECs. Thus, the security requirements imposed on CLECs are actually less stringent than requirements BellSouth imposes on itself.

BellSouth requires the CLECs to conduct the criminal background check equal in scope to that which BellSouth conducts on its prospective new hires, and certify to BellSouth that they have done so. Any information obtained as a result of the criminal background investigation remains with the CLEC and is not even sent to BellSouth.

As for certified vendors, BellSouth does not have a list of certified vendors for BlueStar, another list for Covad, and yet another list for BellSouth. Every vendor that wants to become certified must meet the same requirements. This process is required for vendors to work in the central office, no matter who has engaged them for the work – BellSouth or any other entity. And, once vendors become certified, they are added to the certified vendor list and may perform work for any entity. Thus, CLECs are not required to certify that their certified vendor has met any requirements. All such requirements are verified in the vendor certification process.

BellSouth does not require CLECs or certified vendors to receive an ID from BellSouth. BellSouth simply requires the CLECs and vendors to display a picture ID issued by their respective companies bearing certain information typical of any picture identification.

BlueStar Allegation 5:

BlueStar's collocation contract with BellSouth provides for unescorted 24 by 7 access to the all these sites. BellSouth has never been able to live up to this portion of the contract. Completely ignoring its contract obligations to BlueStar, each BellSouth regional office and even selected central offices insist upon its own form of access

BellSouth abides by the terms of its collocation contracts. The access controls utilized by BellSouth are exactly as defined in the Collocation directives of June 1999.¹¹ These directives, which speak for themselves, contain a few basic principles.

1. CLEC personnel authorized to gain access to a central office are CLEC employees and employees of a certified vendor who is doing work for a CLEC.¹²
2. To gain access, the CLEC must notify BellSouth and apply for an access card or key for individuals who will be working in the central office.
3. Once in the central office, the CLEC personnel must display his company's identification card.

¹¹ These directives are found in Security Procedures and Requirements for Physical Collocation Pursuant to the *Advanced Services Order*, effective June 1, 1999. A copy of these directives was provided to BlueStar upon executing its collocation agreement.

¹² See discussion above regarding certified vendors.

BlueStar's own words demonstrate how it violated these principles at the central offices that it references in its letter.

BlueStar Allegation 6:

For example, in mid-December 1999 Lucent Technologies, which performs similar installation work for BellSouth, attempted to begin installing for BlueStar a three bay collocation at several central offices in Louisville. First, several of the Lucent employees could not get proper badges from BellSouth because BellSouth had a significant backlog of requests for badges and for badge activation. To surmount this problem, BlueStar employees used their badges and escorted the Lucent personnel into the sites. BlueStar told BellSouth that it would assume total responsibility for any problems caused by these Lucent employees, all of whom had passed background checks administered by Lucent. This was permitted for one day, but then the regional director of security decided to stop this process and prevented any more personnel from entering the offices.

BlueStar has provided insufficient facts for BellSouth to be certain it is responding to events to which BlueStar's allegation refers. BellSouth, however, believes that this allegation is based on incidents occurring at two central offices in Louisville -- Anchorage and Six Mile Lane. BellSouth responds to these allegations by first correcting some significant inaccuracies in BlueStar's statement of facts.

First, the BlueStar vendor employees involved in these incidents were not Lucent employees, as alleged by BlueStar, but employees of MasTec. At that time MasTec was not a certified vendor of BellSouth but was still going through the certification process.

Second, as already mentioned, BellSouth does not require CLECs or certified vendors to receive an ID from BellSouth. BellSouth simply requires that CLEC employees and certified vendors display a picture ID issued by their respective companies bearing a minimal amount of information typical of any picture identification.

Assuming that BlueStar meant to suggest that it could not get access cards or keys issued for MasTec employees, the same process is followed for all certified vendors. If individual access cards could not be obtained in a timely manner, a BlueStar employee could have provided escorted access for the MasTec employees. Non-escorted access, *i.e.*, merely unlocking the central office door and allowing the vendor in without remaining on premises, would violate the collocation agreement and BellSouth Security policy, even if the BlueStar employee agreed to be responsible for all problems. BellSouth, however, has no record of a BlueStar employee informing any BellSouth employee working in the central office that the MasTec employees would also be

working in the central office on that particular day.¹³ BellSouth learned of MasTec's presence when BellSouth's network employees observed the MasTec employees in the central office without proper identification.

The network employees notified BellSouth's Security Manager. Because the MasTec employees had no identification and no access card or keys assigned to them, the Security Manager advised the BellSouth network employees that under BellSouth's collocation policies, unsupervised access was not allowed. He therefore requested the BellSouth network employees to escort the MasTec employees from the building. The same situation occurred on the next day at a different central office.

BlueStar Allegation 7:

When BlueStar attempted to escalate this issue within BellSouth, phone calls and e-mails either were not answered, or responded to with a message to call the contract administrator. BlueStar finally managed to contact BellSouth personnel in contract administration, but they informed BlueStar that there was nothing they could do. Although they also informed BlueStar that BellSouth itself experienced delays in authorizing its own personnel to enter its central offices. BlueStar observed BellSouth personnel entering and obtaining access in the central offices in Louisville, Kentucky without any badges.

The escalation of the issue of which BlueStar speaks involved BlueStar's attorney contacting the Security Manager and threatening litigation. Upon receiving this threat, the Security Manager properly informed the attorney to contact BellSouth's legal department. Moreover, BellSouth policies require that its employees have their badges with them at all times.

BlueStar Allegation 8:

...When the badges for the Lucent personnel finally showed up after they missed several days of construction work, the director of security for Kentucky imposed additional requirements. Several of the offices had internal physical or electronic keys or doors which Lucent had to cross to run the cables between the BlueStar collocation area and the BellSouth frames, power and DSX panels. BellSouth personnel began locking those doors, but BlueStar never received any keys for them despite the requirements in contract with BlueStar that BlueStar be provided keys necessary to access areas where cables would be installed...

¹³ BellSouth was aware that MasTec would be performing work for BlueStar in BellSouth's central offices, however, BlueStar did not provide BellSouth with notification that MasTec workers would be in the central office on either of the days that are the basis of BlueStar's claim.

BellSouth notes again that it does not require CLECs, or their certified vendors to have a BellSouth badge issued to them. Assuming BlueStar is referring to access cards and keys, the collocation guidelines established by BellSouth require that when obtaining access the CLEC must identify all areas to which it will need access. Generally, a CLEC is limited to the area in which its equipment is located. If the CLEC needs to go beyond that area, it must obtain keys or access cards for internal doors. BlueStar has the capability of obtaining these necessary keys by completing the proper paperwork. The proper keys and access cards are provided before construction begins as long as BlueStar performs proper work surveys on necessities at given locations prior to actual work start dates.

Although BellSouth is uncertain that BlueStar's allegations refer to the following event, BellSouth states that in December of 1999 its Louisville Security Manager observed two doors in a central office that had the locking mechanisms blocked by tape to prevent proper locking, which is strictly forbidden by BellSouth Security policy and is explicitly covered in the CLEC Training provided by BellSouth. The Security Manager removed the tape and the doors were locked. The Security Manager then observed three unidentified persons in the building. The persons had no identification but identified themselves as employees of MasTec. The MasTec employees admitted that they had taped the locks open. These MasTec employees were advised not to tape the locking mechanisms and allowed to retrieve their identification (in their vehicles) and continue working.

C. Cost of Collocation

BlueStar makes broad general allegations regarding the cost BellSouth charges for collocation. These allegations suggest that BellSouth is charging an amount above what is just, reasonable, and nondiscriminatory. This is simply not true. BellSouth cannot respond to these general unsupported allegations except to state that it charges the CLECs only the costs that BellSouth incurs for preparing the collocation space. BellSouth has provided BlueStar with cost estimates on all collocation projects. Moreover, the rates and charges for collocation are all cost based. Indeed, estimates provided for individual case basis ("ICB") costs are trued up to actual cost at the end of the project. BlueStar concludes its unsupported claims by asserting that the Commission should set national pricing guidelines for cageless collocation. BellSouth asks what is more reasonable than cost? Even BlueStar cannot expect to receive collocation for below the costs that ILECs incur to provide such collocation. If BlueStar has a complaint, its complaint is with the cost of doing business, something neither BellSouth nor other ILECs can resolve.

D. Rapid Dispute Resolution

In the last section of its letter, BlueStar makes allegations regarding problems associated with the placement of its equipment in BellSouth's central offices. BlueStar makes these allegations to try to demonstrate the need for a dispute resolution process. BellSouth finds it ironic that BlueStar chose the facts it did to attempt to underscore a need for such a process. The problem it describes is a situation caused by BlueStar not following the parameters of its collocation applications. Indeed, if BlueStar had adhered to the equipment sizes it stated that it was going to collocate, there would have been no problem.

BlueStar Allegation 9:

After BlueStar and other CLECs and BellSouth installed hundreds of bays in Jacksonville, and throughout Florida where the equipment exceeded the width of the bay by up to 6 inches, BellSouth decided on 24 hours notice that it needed to conserve space and would no longer allow equipment to overhang the bays. BlueStar could have accommodated a thirty day notice by BellSouth to alter this practice (as long as BellSouth waived the normal absurdly long period to augment an order). Instead, BellSouth immediately stopped all BlueStar work in several central offices in Jacksonville for 72 hours. Only after a full day of discussions and email threatening extensive litigation did BellSouth agree to allow a phase-in of this requirement.

Again BellSouth begins its response to an allegation by correcting inaccuracies in BlueStar's statement of facts. BellSouth did not stop work in any, much less several, central offices. When it discovered the problem, BellSouth notified BlueStar of the problem and employees of both companies investigated the issue in two central offices where installation of equipment was under way.¹⁴ The problem was resolved because of the BellSouth and BlueStar employees finding a solution that was acceptable to both parties. During this period, BlueStar sent only one e-mail, and that e-mail contained no threat of extensive litigation.

Most significant, regardless of how it has misrepresented the process, BlueStar cannot escape the fact that the problem was entirely of its own making.

BlueStar misrepresented the size of its equipment on the applications for collocation it placed with BellSouth. BlueStar's initial applications generally called for twelve inch deep (front to back) equipment. For this reason, BellSouth arranged for that part of BlueStar's equipment to be placed in line-ups with other twelve-inch deep equipment.

¹⁴ See discussion of central offices below.

Actual dimensions of BlueStar's equipment ranged from fifteen inches deep to eighteen inches deep. In more than one case, the resulting overhang of the equipment into the existing aisles reduced the existing aisles' width below needed aisle widths. BlueStar began the installation of this larger equipment without augmenting its collocation request to correct the equipment size, without checking the physical location, and without checking with BellSouth's Common Systems Capacity Manager, either in writing or verbally, to verify if the deeper-dimensional equipment could be accommodated in the designated locations. The correct process would have been for BlueStar to augment its collocation request with the correct information so that BellSouth could make available space in line-ups with required aisle widths. (As recently as the first week in February, inquiries were received from BlueStar about further equipment size changes to as much as twenty-one inches.)

BellSouth rightly requested that all sites where installation had commenced be jointly reviewed to ensure that appropriate aisle widths could be maintained there. Specific examples from two of the offices involved will more clearly indicate the kinds of problems created by BlueStar's approach to planning, ordering, engineering, and installing its equipment in BellSouth's central offices.

Example of Central Office A

On August 13, 1999, BlueStar sent its firm order for collocation in BellSouth's central office "A".¹⁵ This firm order was subsequently revised in August, 1999, and again in November, 1999. BellSouth relied on the misinformation provided by BlueStar and provisioned collocation space to BlueStar to accommodate equipment that would be only 12 inches deep. That collocation space was made available to BlueStar on November 2, 1999, and BlueStar began its equipment installation.

BellSouth has attached Exhibit 1 which clearly shows an example of the differences BellSouth discovered between BlueStar's approved order and BlueStar's actual installation. Page 1 is a photograph of the BlueStar installation central office "A". BlueStar's original order called for equipment of twelve-inch depth. This was later amended by BlueStar to call for equipment of fifteen-inch depth. As can be seen, the actual installation is sixteen inches deep comprised of a twelve-inch equipment rack with two-inch extenders on the right side to support the equipment. Page 2 of Exhibit 1 shows the other end of the equipment bay where there is a ten-inch equipment rack and a two-inch extender on each side for a total of fourteen inches. Page 3 of Exhibit 1 shows a schematic of BlueStar's oversized installation.

¹⁵ Because it deems the location of the offices that BlueStar has equipment collocated as proprietary and confidential to BlueStar, BellSouth does not name those central offices in this letter.

Example of Central Office B

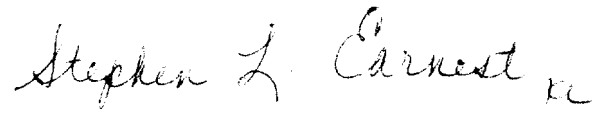
BlueStar placed its order for this location on August 13, 1999. This order was subsequently revised on November 19, 1999, and again on November 30, 1999. BellSouth notified BlueStar that its space was ready on November 9, 1999. BlueStar started installing its equipment on November 17, 1999. BellSouth's Common Systems Capacity Manager for the central office "B" discovered that BlueStar's equipment in the collocation space was not installed as directed by BellSouth's answer to BlueStar's firm order nor as indicated on sketches provided to BlueStar by the Common Systems Capacity Manager. BlueStar's installation of its oversized equipment will delay the completion of site preparation for another collocater's equipment that is planned for that same central office because BlueStar's equipment is blocking the installation of an additional row of overhead lights.

BellSouth provides Exhibit 2, which shows views of BlueStar's equipment in central office "B". The equipment (in the center of the picture on Page 1 of Exhibit 2) was installed in the wrong location and facing in the wrong direction. Page 2 of Exhibit 2 shows the power cable and switchboard cable coming down from the cable rack to the front of the equipment, looping back over the equipment, under the cable rack, and terminating to the rear of the equipment which is not the proper way of providing power to the equipment. A correct re-installation was needed so that overhead racking and cable could be properly installed. BlueStar proceeded to install working service on the equipment even though BellSouth had told BlueStar personnel of the installation and corrections had not been completed.

In summary, the problem discussed by BlueStar in its Allegation 9 was of its own making. Had it installed the equipment of the dimensions it presented to BellSouth in its orders for collocation, the problem would never have arisen. Even if a dispute resolution process had been in place, which apparently is the remedy BlueStar seeks, the dispute would have been settled no faster. BellSouth also believes that prescription of a dispute resolution process should be left to the state commissions' discretion. These commissions are acutely aware of the contents of collocation agreements and the parties' positions. Establishment of a federal hearing office, as BlueStar proposes, would require a tremendous amount of resources by the Commission and would duplicate efforts that are available to the parties in the states.

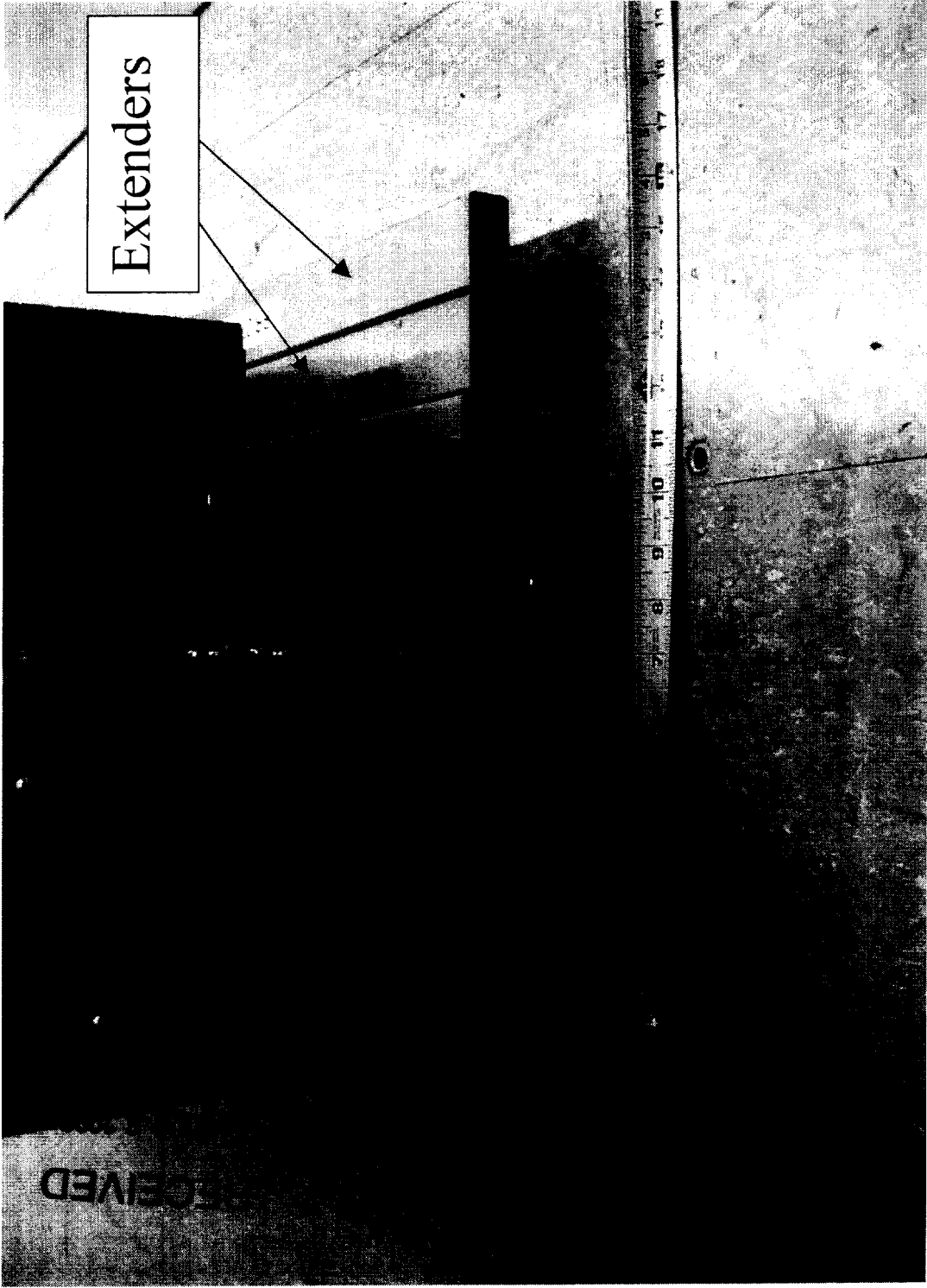
Please do not hesitate to contact me if I can provide any further information.

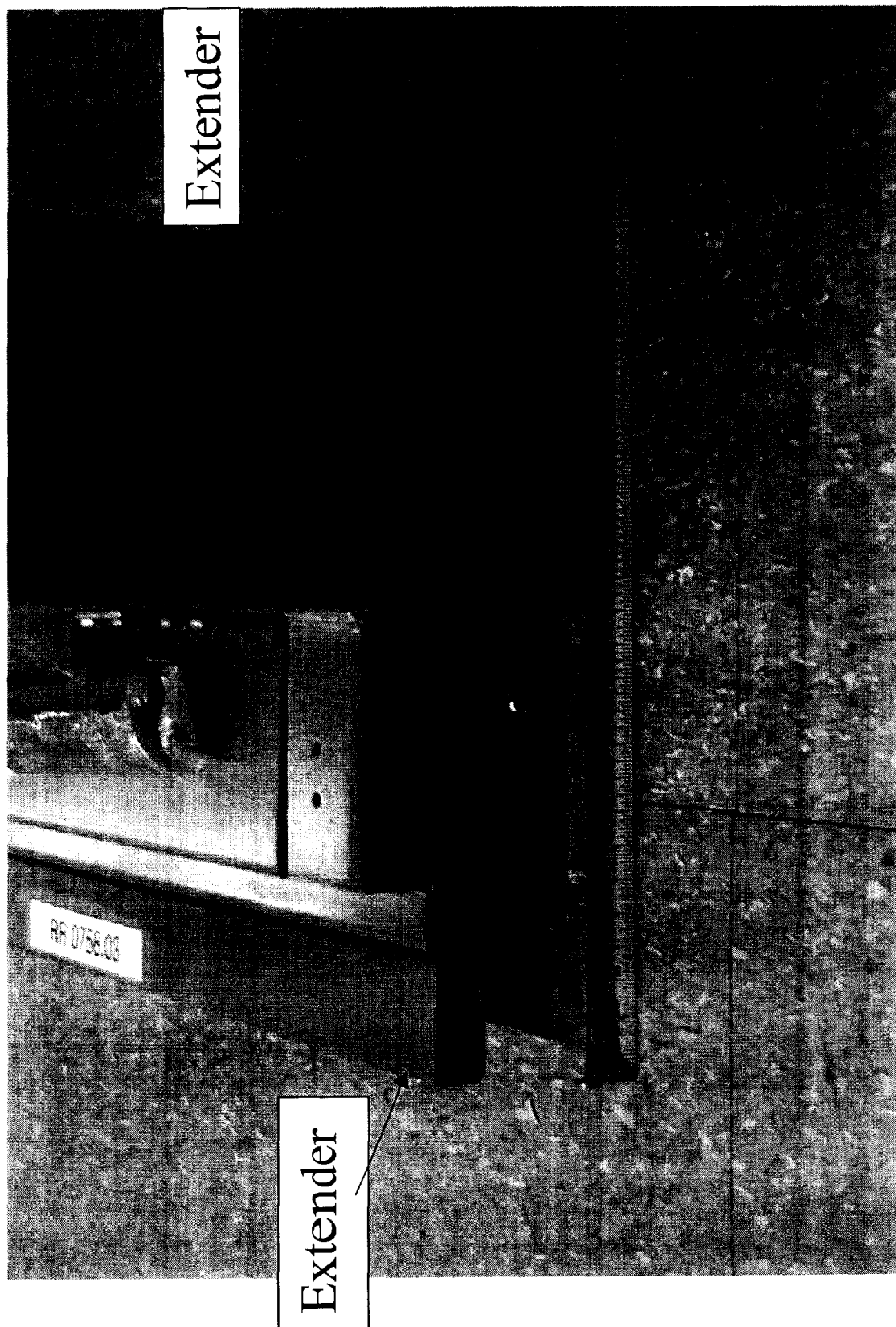
Sincerely,

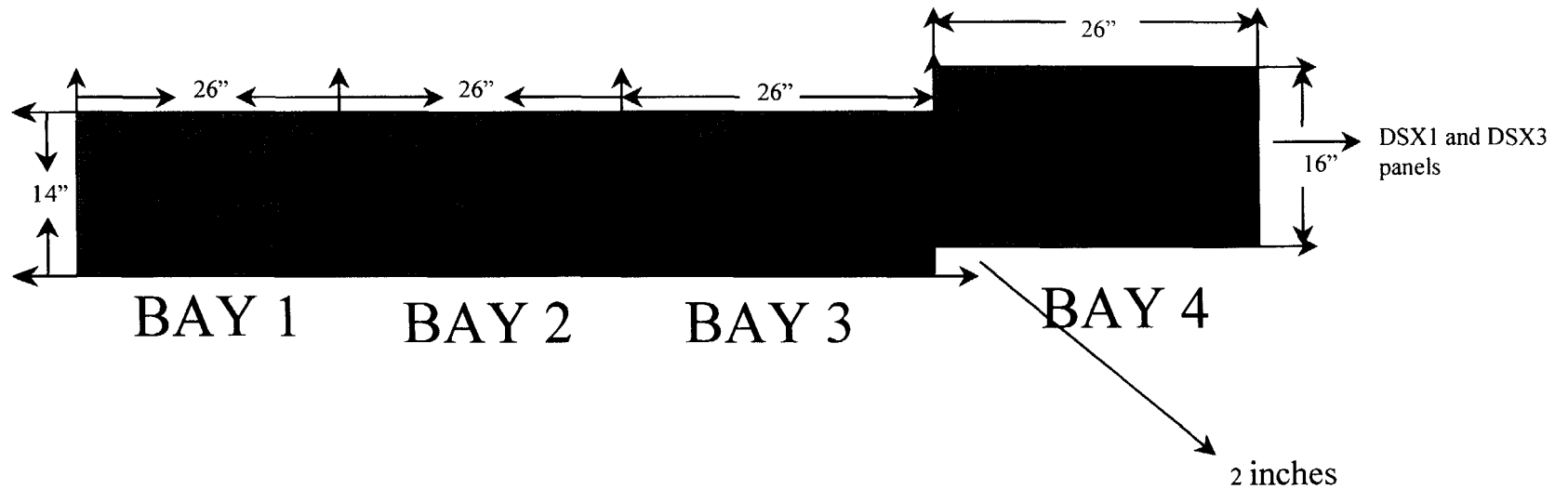
A handwritten signature in cursive script that reads "Stephen L. Earnest". The signature is written in dark ink and includes a small flourish at the end.

Stephen L. Earnest

cc: Robert Atkinson
Dorothy Attwood
Rebecca Beynon
Jared Carlson
Michelle Carey
Kyle Dixon
Margaret Egler
Claudia Fox
Jordan Goldstein
Jake Jennings
William Kehoe
Larry Strickling
Sarah Whitesell







BlueStar measurements in central office "A"

